

ARKANSAS SUPREME COURT

No. CR 06-151

NOT DESIGNATED FOR PUBLICATION

DARRELL KEY JACKSON
a/k/a Darryl Key Jackson
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered April 13, 2006

PRO SE MOTION FOR EXTENSION OF TIME
TO FILE APPELLANT'S BRIEF [CIRCUIT
COURT OF PULASKI COUNTY, CR 96-702,
HON. MARION HUMPHREY, JUDGE]

APPEAL DISMISSED; MOTION MOOT

PER CURIAM

In 1998, Darrell Key Jackson, who is also known as Darryl Key Jackson, entered a plea of guilty to rape, residential burglary, aggravated robbery, and theft of property. He was sentenced as a habitual offender to an aggregate term of 960 months' imprisonment.

In 2005, Jackson, who was incarcerated in Lincoln County, filed a petition for writ of *habeas corpus* in the trial court in Pulaski County. The petition was denied, and Jackson has lodged an appeal from that order in this court. Now before us is appellant's motion for extension of time to file his brief-in-chief.

As we find that appellant could not be successful on appeal, the appeal is dismissed. The motion is moot. This court has consistently held that an appeal of the denial of postconviction relief, including an appeal from an order that denied a petition for writ of *habeas corpus*, will not be permitted to go forward where it is clear that the appellant could not prevail. *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (*per curiam*); *Seaton v. State*, 324 Ark. 236, 920 S.W.2d 13 (1996) (*per curiam*); *Harris v. State*, 318 Ark. 599, 887 S.W.2d 514 (1994) (*per curiam*); *Reed v. State*, 317 Ark. 286, 878 S.W.2d 376 (1994) (*per curiam*).

Any petition for writ of *habeas corpus* to effect the release of a prisoner is properly addressed to the circuit court in the county in which the prisoner is held in custody, unless the petition is filed

pursuant to Act 1780 of 2001.¹ Arkansas Code Annotated §16-112-105 (1987) requires that the writ be directed to the person in whose custody the petitioner is detained. Additionally, the writ is properly issued by a court that has personal jurisdiction over the petitioner. Otherwise, although a circuit court may have subject-matter jurisdiction to issue the writ, a court does not have personal jurisdiction to issue and make returnable before itself a writ of *habeas corpus* to release a petitioner held in another county. See, e.g., *State Dept. of Public Welfare v. Lipe*, 257 Ark. 1015, 521 S.W.2d 526 (1975); *Johnson v. McClure*, 228 Ark. 1081, 312 S.W.2d 347 (1958); *State v. Ballard*, 209 Ark. 397, 190 S.W.2d 522 (1945).

In the present matter, appellant was in the custody of the Arkansas Department of Correction in Lincoln County, but he filed the petition for writ of *habeas corpus* in the court in Pulaski County where he was originally convicted. As the petition was not filed pursuant to Act 1780, the petition should have been addressed to the Circuit Court of Lincoln County inasmuch as the trial court did not have personal jurisdiction over appellant to effect his release from custody. See *Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991).

Appeal dismissed; motion moot.

¹Act 1780 of 2001, codified at Ark. Code Ann. §§ 16-112-201–16-112-207 (Supp. 2003), provides for the filing of a petition for writ of *habeas corpus* in the trial court if certain grounds, which were not advanced in appellant’s petition, are raised.